

STATE OF ALASKA

DEPARTMENT OF COMMERCE
COMMUNITY AND ECONOMIC DEVELOPMENT
REGULATORY COMMISSION OF ALASKA

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May 12, 2006

Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
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Washington, D.C. 20554

Karen Majcher
Vice President – High Cost
& Low Income Division
Universal Service Administrative Company
2000 L Street, N.W.
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Washington, D.C. 20036

**Re: CC Docket No. 96-45
Universal Service Support Certification (47 C.F.R. §§ 54.313-54.314)**

Ms. Dortch and Ms. Majcher:

This letter is submitted pursuant to 47 C.F.R. §§ 54.313 and 54.314, which require States to annually certify the use of federal universal service support as a prerequisite for continued receipt of funding by eligible telecommunications carriers ("ETC"). The Regulatory Commission of Alaska ("RCA") governs local services and rates in Alaska and is the appropriate authority to issue the certification required under Sections 54.313 and 54.314.

By Order dated April 11, 2006, the RCA designated ACS Wireless, Inc. ("ACSW") as an ETC in certain areas in the State of Alaska pursuant to 47 U.S.C. § 214(e)(2). The RCA's Order designating ACSW as an ETC is enclosed herewith as **Exhibit A**. Although ACSW is a non-regulated wireless carrier, the RCA has directed ACSW to file annual certifications with it concerning the Company's use of universal service support. The RCA will regularly review ACSW's responses in this area.

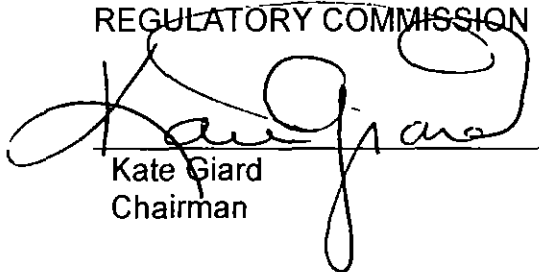
This letter serves as a supplement to the RCA's 2006 annual certification to the Federal Communications Commission ("FCC") and the Universal Service Administrative Company ("USAC") dated September 19, 2005. ACSW was designated as an ETC in the Copper Valley Telephone Cooperative, Inc. (CVTC) and City of Ketchikan (Ketchikan) service areas on April 11, 2006 – after the certification deadlines set forth in 47 C.F.R. §§ 54.313(d) and 54.314(d) to allow the Company to receive high-cost universal service support beginning in the first quarter of the 2006 calendar year.



Pursuant to new FCC Rules 54.313(d)(3)(vi) and 54.314(d)(6), the RCA must certify ACSW's use of support to the FCC and USAC within sixty (60) days of the Company's ETC designation to ensure that ACSW is eligible to receive high-cost universal service support commencing the date of its ETC designation.

ACSW has certified to the RCA that all federal high-cost universal service support received by the Company in Alaska for the above service areas will be used pursuant to 47 U.S.C. § 254(e). Accordingly, the RCA declares that, to the best of its knowledge and belief, all federal high-cost support to be received by ACSW in the State of Alaska for these service areas in calendar year 2006 will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with Section 254(e) of the Communications Act. Accordingly, the RCA certifies ACSW's use of support in the State of Alaska for the 2006 calendar year so that the Company may receive high-cost federal universal service support effective the date of its designation – April 11, 2006.

REGULATORY COMMISSION OF ALASKA



Kate Giard
Chairman

Enclosure

EXHIBIT A

1 STATE OF ALASKA

2 THE REGULATORY COMMISSION OF ALASKA

3 Before Commissioners:

Kate Giard, Chairman
Dave Harbour
Mark K. Johnson
Anthony A. Price
James S. Strandberg

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7 In the Matter of the Request by ACS)
8 WIRELESS, INC. for Designation as a Carrier)
9 Eligible to Receive Federal Universal Service)
10 Support Under the Telecommunications Act of 1996)

U-05-89

ORDER NO. 2

11 ORDER AFFIRMING ELECTRONIC RULINGS, REQUIRING FILINGS, AND
12 FINDING PETITIONS TO INTERVENE MOOT

13 BY THE COMMISSION:

14 Summary

15 We affirm our electronic rulings issued on January 25, 2006,
16 February 9, 2006, and April 4, 2006. We require filings from ACS Wireless, Inc.
17 (ACSW) as a designated eligible telecommunications carrier for the purposes of
18 receiving universal service funds (USF). We find the petitions to intervene filed by
19 CTCI,¹ CVTC,² Ketchikan,³ and GCI,⁴ moot.

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21 ¹Cordova Telephone Cooperative, Inc. (CTCI).

22 ²Copper Valley Telephone Cooperative, Inc. (CVTC).

23 ³ACSW asked to be designated as an eligible telecommunications carrier
24 throughout the area served by KPU Telecommunications. As the City of Ketchikan
holds Certificate of Public Convenience and Necessity No. 104 and provides local
exchange service in Ketchikan, we use City of Ketchikan (Ketchikan) in this proceeding.

25 ⁴General Communication Corp. d/b/a General Communication, Inc. d/b/a GCI
(GCI).

Background

ACSW submitted an Application⁵ for designation as an eligible telecommunications carrier (ETC) for purposes of receiving all available support from federal and state universal service funding in the areas served by CTCI, CVTC, and Ketchikan. In conjunction with the Application, ACSW filed the affidavits of David C. Eisenberg,⁶ Senior Vice President of Corporate Strategy and Development, and Nick Miller,⁷ Wireless Operations Manager for ACSW. We noticed ACSW's Application on October 11, 2005, with a comment filing deadline of November 14, 2005. Comments in opposition to ACSW's Application were received from CVTC⁸ and Ketchikan.⁹

ACSW requested approval of its Application without a hearing or, alternatively a prehearing conference within the next thirty days to set a

⁵ACS Wireless, Inc.'s Application for Designation as an Eligible Telecommunications Carrier, filed October 3, 2005 (Application).

⁶Affidavit of David C. Eisenberg, filed October 3, 2005 (Eisenberg Affidavit).

⁷Affidavit of Nick Miller, filed October 3, 2005 (Miller Affidavit).

⁸Copper Valley Telephone Cooperative, Inc.'s Comments in Response to ACS Wireless, Inc.'s Application for Designation as an Eligible Telecommunications Carrier, filed on November 14, 2005 (CVTC Comments).

⁹KPU Telecommunication's Comments in Response to ACS Wireless, Inc.'s Application for Designation as an Eligible Telecommunications Carrier, filed November 14, 2005 (KPU Comments).

1 hearing schedule.¹⁰ CVTCI¹¹ and CTCI¹² supported ACSW's request for a prehearing
2 conference, but opposed ACSW's alternative request that we approve the Application
3 without a hearing. CTCI¹³ and CVTC¹⁴ petitioned to intervene.

4 We granted the unopposed motion for a prehearing conference by ACSW,
5 scheduled a prehearing conference, invited intervenors, required proposed procedural
6 schedules to be filed, and appointed a hearing examiner in this proceeding.¹⁵ CTCI and
7 CVTC filed an unopposed request to participate telephonically at the February 2, 2006
8 prehearing conference.¹⁶ We issued an electronic ruling¹⁷ granting the request.

9 ACSW amended its ETC Application to remove the area served by CTCI
10 from its proposed ETC service areas.¹⁸ Ketchikan petitioned to intervene¹⁹ in this
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14 ¹⁰*ACS Wireless, Inc.'s Motion for a Prehearing Conference*, filed December 19,
2005.

15 ¹¹*CVTC's Response to Motion for Prehearing Conference*, filed on January 3,
2006.

16 ¹²*Cordova Telephone Cooperative, Inc.'s Response to Motion for Prehearing*
17 *Conference; and Petition to Intervene*, filed on January 3, 2006.

18 ¹³*Id.*

19 ¹⁴*Copper Valley Telephone Cooperative, Inc.'s Petition to Intervene*, filed on
January 10, 2006.

20 ¹⁵*Order U-05-89(1), Order Inviting Intervenors, Scheduling Prehearing*
21 *Conference, Requiring Filing, and Appointing Hearing Examiner*, dated January 17,
2006 (Order U-05-89(1)).

22 ¹⁶*Unopposed Request to Participate Telephonically*, filed January 23, 2006.

23 ¹⁷The parties were electronically notified on January 25, 2006.

24 ¹⁸*Amendment to ACS Wireless, Inc.'s Application for ETC Status to Delete the*
25 *Area Served by Cordova Telephone Cooperative, Inc. From the Proposed ETC Service*
26 *Area*, filed on January 25, 2006.

¹⁹*Petition of Ketchikan Public Utilities to Intervene*, filed January 25, 2006.

1 proceeding and requested to participate telephonically in the prehearing conference.²⁰
2 GCI also petitioned to intervene.²¹

3 Ketchikan and CVTC jointly filed their proposed procedural schedule.²²
4 ACSW filed a proposed procedural schedule unopposed by GCI, along with a request
5 that in the alternative we approve its ETC Application without a hearing.²³ The
6 prehearing conference convened on February 2, 2006 and a procedural schedule was
7 adopted.²⁴

8 We issued an electronic ruling allowing responses to ACSW's request for
9 approval of its ETC Application without a hearing.²⁵ GCI responded²⁶ and CVTC
10 opposed.²⁷ ACSW replied to CVTC's opposition and responded to CVTC's and
11 Ketchikan's Comments.²⁸ ACSW also filed a proposed Network Upgrade and Service
12 Improvement Plan.²⁹ We issued an electronic ruling³⁰ granting ACSW's request for
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14 ²⁰*Unopposed Request to Participate Telephonically*, filed January 25, 2006.

15 ²¹*GCI's Petition to Intervene*, filed on January 26, 2006.

16 ²²*Joint Proposed Schedule*, filed by Ketchikan and CVTC on January 31, 2006.

17 ²³*ACS Wireless, Inc.'s Proposed Procedural Schedule Pursuant to Order No. 1,*
18 *or, in the Alternative, ACSW Wireless Requests that its ETC Application be Approved*
19 *Without a Hearing*, filed on January 31, 2006 (Motion).

20 ²⁴Tr. at 11.

21 ²⁵The parties were electronically notified on February 9, 2006.

22 ²⁶*GCI's Response to Motion for Decision Without Hearing*, filed on February 13,
23 2006 (GCI Response).

24 ²⁷*CVTC's Opposition to Request for Approval Without a Hearing*, filed on
25 February 13, 2006 (CVTC Opposition).

26 ²⁸*ACSW's Reply to CVTC Opposition to ACSW Motion for Approval of ETC*
Application Without a Hearing and Response to CVTC and KPU Comments, filed on
February 15, 2006 (Reply).

²⁹*Id.*, Ex. 1.

³⁰The parties were electronically notified April 4, 2006.

1 approval of its ETC Application without a hearing, approving the Application, and
2 vacating the procedural schedule.

3 Discussion

4 Electronic Rulings

5 We affirm our electronic ruling on January 25, 2006 granting the requests
6 by CTCI and CVTC to appear telephonically at the prehearing conference set on
7 February 2, 2006. Further, we affirm our electronic ruling on February 9, 2006,
8 construing ACSW's request for approval of its Application without hearing as a motion.
9 In that ruling, we permitted the entities that filed petitions to intervene in this proceeding
10 to file responses to the motion and permitted reply. Further, we determined that the
11 petitions to intervene should be held in abeyance pending a decision on the motion for
12 ruling on the Application without a hearing. We affirm these rulings.

13 GCI filed in support of ACSW's motion for approval of its ETC Application
14 without a hearing.³¹ CVTC opposed ACSW's Motion.³² GCI contended that we had, or
15 could develop, an adequate record upon which to resolve this proceeding.³³ CVTC
16 stated that the Motion is inconsistent with ACSW's prior request that we schedule a
17 hearing and Order U-05-89(1).³⁴

18 We issued an electronic ruling on April 4, 2006, granting ACSW's motion
19 for approval of its ETC Application without a hearing and approving the Application filed
20 by ACSW for status as an ETC for purposes of receiving federal and state universal
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23 ³¹GCI Response.

24 ³²CVTC Opposition.

25 ³³GCI Response at 1.

26 ³⁴CVTC Opposition at 1-2.

1 service funding throughout the areas served by CVTC and Ketchikan. In that ruling, we
2 also vacated the procedural schedule. We affirm these rulings.

3 ETCs are eligible to receive universal service support to provide, maintain,
4 and upgrade facilities and services for which the support was intended, namely the
5 telecommunications services and functions defined by federal regulation at
6 47 C.F.R. § 54.101.³⁵ Under the Telecommunications Act of 1996 (the Act),³⁶ state
7 commissions decide whether requests for ETC designation should be granted.³⁷ Under
8 federal law, an ETC must provide the supported universal telecommunications service
9 throughout a defined service area.³⁸ In addition, the applicant must meet the following
10 criteria for rural ETC status: (a) demonstrate that it owns at least some facilities;
11 (b) demonstrate its capability and commitment to provide the nine basic services
12 required by FCC regulation throughout its designated study area;³⁹ (c) reasonably show
13 that granting ETC designation is in the public interest; and (d) show that upon obtaining
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22 ³⁵ See also 47 U.S.C. § 254(e).

23 ³⁶ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996),
amending the Communications Act of 1934, 47 U.S.C. §§ 151 *et seq.*

24 ³⁷ 47 U.S.C. § 214(e)(2); 47 C.F.R. § 54.201.

25 ³⁸ 47 C.F.R. § 54.201(d).

26 ³⁹ The nine basic services are set out at 47 C.F.R. § 54.101.

ETC status, the applicant will be able to offer and will advertise the availability of the services supported by the federal USF.⁴⁰

Ownership of Facilities

ACSW stated that it has cellular facilities in each of its proposed service areas and will provide service using its own facilities or its own facilities in combination with resale of services of another carrier.⁴¹ ACSW provided locations and status of its existing and proposed cell sites.⁴² ACSW holds licenses to provide cellular service and personal communications service (PCS) in the Alaska Basic Trading Areas BTA014 and BTA221 that cover its proposed service areas.⁴³

⁴⁰47 U.S.C. § 214(e)(1) and (2) of the Act provide:

(1) Eligible telecommunications carriers

A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received –

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

(2) Designation of eligible telecommunications carriers

... Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

⁴¹Reply at 2.

⁴²Application, Ex. C; Reply at 2, Ex. 4.

⁴³ACSW's PCS licenses are KNLF936, KNLG364 and KNLG981. ACSW's Cellular License is KNKN261. Application at 4.

1 ACSW provided maps of its current coverage area in relation to its
2 proposed ETC service areas.⁴⁴ Although ACSW's current facilities do not cover the
3 entire CVTC and Ketchikan service areas, ACSW stated that with access to federal
4 USF, it plans to develop its network in these areas.⁴⁵ While ACSW does not hold
5 facilities in all portions of its proposed service areas, there is still an adequate record for
6 us to conclude that ACSW meets the "ownership of facilities" test.

7 Although section 214(e)(1) of the Act requires an ETC to "offer" the
8 services supported by the federal universal service support mechanisms, an ETC
9 applicant is not required to provide the supported services throughout the designated
10 service area before designation as an ETC.⁴⁶ We find that ACSW's lack of facilities
11 throughout the proposed ETC service areas at this time does not, in and of itself, make
12 ACSW ineligible for ETC status.

13 Capability and Commitment

14 ACSW must provide enough information to demonstrate its ability to
15 provide each of the nine basic services designated by the FCC, including Lifeline and
16 Link-Up services⁴⁷ or obtain a waiver.⁴⁸ In its Application, ACSW stated that it currently
17 offers all nine basic services to its customers and it commits to providing all nine

18 ⁴⁴Application, Ex. D and F.

19 ⁴⁵Reply at 3.

20 ⁴⁶*Federal-State Joint Board on Universal Service; Western Wireless Corporation*
21 *Petition for Preemption of an Order of the South Dakota Public Utilities Commission,*
22 *Declaratory Ruling, CC Docket No. 96-45, 15 FCC Rcd 15168 15172-73 (2000).*

23 ⁴⁷Lifeline and Link-Up services are services offered by ETCs to qualifying
24 low-income customers. Link-Up is described at 47 C.F.R. § 54.411(a), and Lifeline is
25 described at 47 C.F.R. § 54.401(a).

26 ⁴⁸The FCC allows a state commission to grant waiver of the requirement to
provide single-party access to Enhanced 911 (E911) and toll limitation services to allow
additional time for a carrier to complete network upgrades necessary to provide service.
47 C.F.R. § 54.101(c).

1 services throughout its proposed service areas, including Lifeline and Link Up services,
2 upon receiving USF.⁴⁹

3 ACSW stated that it currently offers voice grade access to the public
4 switched network through interconnection arrangements or roaming agreements with
5 local telephone and other wireless companies,⁵⁰ offers a number of affordable basic rate
6 plans which offer "local usage,"⁵¹ provides both out-of-band and in-band multi-frequency
7 signaling, the functional equivalent of dual tone multi-frequency signaling, single party
8 service,⁵² access to emergency services,⁵³ access to operator services, access to
9 interexchange services, access to directory services,⁵⁴ and can readily implement toll
10 limitation for qualifying low-income customers.⁵⁵

11 ACSW filed a summary of its rate plans including minutes of use and
12 prices.⁵⁶ In addition, ACSW stated that it entered into an interconnection agreement

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14 ⁴⁹Application at 5-6, 13-14.

15 ⁵⁰*Id.* at 6.

16 ⁵¹*Id.* at 7-8.

17 ⁵²*Id.* at 8.

18 ⁵³*Id.* at 9. 47 C.F.R. § 54.101(a)(5) states, in part:

19 "Access to emergency services" includes access to services, such as 911
20 and enhanced 911, provided by local governments or other public safety
21 organizations. 911 is defined as a service that permits a
22 telecommunications user, by dialing the three-digit code "911," to call
23 emergency services through a Public Service Access Point (PSAP)
24 operated by the local government. "Enhanced 911" is defined as 911
25 service that includes the ability to provide automatic number identification
26 (ANI), which enables the PSAP to call back if the call is disconnected, and
automatic location information (ALI), which permits emergency service
providers to identify the geographic location of the calling party.

⁵⁴Application at 9

⁵⁵*Id.* at 10.

⁵⁶*Id.* at 8.

1 with CVTC.⁵⁷ Further, ACSW acknowledged that it may be required to provide equal
2 access to long distance carriers in the proposed service areas in the event that no other
3 ETC is providing equal access within the service areas.⁵⁸

4 Although ACSW may be currently providing the nine basic services to its
5 existing customers, the issue of whether ACSW would be capable of providing the
6 services to all customers reasonably requesting service within its proposed service
7 areas remains. To address this issue, ACSW committed to adopt the seven-step
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23 ⁵⁷Reply at 2.

24 ⁵⁸Reply at 11. See *Federal-State Joint Board on Universal Service*, CC Docket
25 No. 96-45, FCC 05-46, 20 FCC Rcd 6371, (March 17, 2005) (FCC ETC Order) at
26 para. 35.

1 approach we approved for Alaska DigiTel, LLC (Ak DigiTel) to meet its ETC obligations
2 to offer services,⁵⁹ to ensure that it will provide service throughout its proposed service
3 areas upon reasonable request, including areas where it does not currently have
4 facilities.⁶⁰ In addition, ACSW stated that it will notify us if it cannot provide service

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6 ⁵⁹Ak DigiTel described a seven-step plan for serving customers:

7 a) if Ak DigiTel can serve within its existing network, Ak DigiTel will
8 immediately serve the customer;

9 b) if the customer is not in an area where Ak DigiTel currently provides
10 service, Ak DigiTel will:

11 Step 1: determine whether the customer's equipment can be
12 modified or replaced to provide acceptable service;

13 Step 2: determine whether a roof-mounted antenna or other
14 network equipment can be deployed at the premises to provide
15 service;

16 Step 3: determine whether adjustments at the nearest cell site
17 can be made to provide service;

18 Step 4: determine whether a cell-extender or repeater can be
19 employed to provide service;

20 Step 5: determine whether there are any other adjustments to
21 network or customer facilities that can be made to provide service;

22 Step 6: explore the possibility of offering the resold services of
23 carriers with facilities available to that location; and

24 Step 7: determine whether an additional cell site can be
25 constructed to provide service, and evaluate the costs and
26 benefits of using scarce high-cost support to serve the number of
customers requesting service.

21 Order U-02-39(10), *Order Granting Eligible Telecommunications Carrier Status*
22 *and Requiring Filings*, dated August 28, 2003, at 8-9 and Order U-04-110, *Order*
23 *Granting Eligible Telecommunications Carrier Status and Requiring Filings*, dated
November 18, 2005, at 6.

24 Docket U-02-39 is *In the Matter of the Request by ALASKA DIGITEL, LLC for*
25 *Designation as a Carrier Eligible to Receive Federal Universal Service Support Under*
26 *the Telecommunications Act of 1996*.

⁶⁰Application at 10; Reply at 5-6.

1 without constructing a new cell site and will include the estimated cost of construction,
2 its position on whether the request for service is reasonable, and its determination of
3 whether high-cost funds should be expended on the request.⁶¹ Further, ACSW also
4 committed to comply with the Cellular Telecommunications Industry Association
5 Consumer Code for Wireless Service (CTIA Consumer Code).⁶² ACSW stated that it
6 will report to us the number of consumer complaints per 1,000 handsets on an annual
7 basis.⁶³

8 ACSW asserted that it commits to the requirements to remain functional in
9 an emergency as set out in the FCC ETC Order.⁶⁴ ACSW stated that it has allocated at
10 least eight hours of battery backup in each of the cell sites being built. For an extended
11 power outage, ACSW indicated that it will use backup generators to provide power.
12 ACSW also stated that it will use the microwave network, hot stand-by radios, and the
13 backup power system of AT&T Alascom⁶⁵ as its redundant network in an emergency.⁶⁶

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16 ⁶¹Reply at 6.

17 ⁶²Reply at 8. CTIA, Consumer Code for Wireless Service, available at
18 http://files.ctia.org/pdf/The_Code.pdf. Under the CTIA Consumer Code, wireless
19 carriers agree to: (1) disclose rates and terms of service to customers; (2) make
20 available maps showing where service is generally available; (3) provide contract terms
21 to customers and confirm changes in service; (4) allow a trial period for new service; (5)
22 provide specific disclosures in advertising; (6) separately identify carrier charges from
23 taxes on billing statements; (7) provide customers the right to terminate service for
24 changes to contract terms; (8) provide ready access to customer service; (9) promptly
25 respond to consumer inquiries and complaints received from government agencies; and
26 (10) abide by policies for protection of consumer privacy.

⁶³Reply at 8.

⁶⁴Reply at 7; FCC ETC Order at para. 25.

⁶⁵Alascom Inc. d/b/a AT&T Alascom.

⁶⁶Reply at 7.

1 We find this is a reasonable strategy for providing service throughout the
2 study areas. We require ACSW to report to us if it cannot provide service without
3 constructing a new cell site. ACSW should inform us of the estimated cost of
4 construction, its position on whether the request for service is reasonable, and whether
5 high-cost funds should be expended on the request. We imposed a similar requirement
6 on other ETCs.⁶⁷ We will address any ACSW requests to deny service on a case-by-
7 case basis. If ACSW unreasonably fails to serve customers throughout its designated
8 service area, we would have cause to revoke its ETC status. Further, we require
9 ACSW to report to us every year the number of consumer complaints per 1,000
10 handsets.

11 Although we find that ACSW has generally demonstrated that it would be
12 capable of providing the nine basic services, we conclude that two of these services,
13 access to emergency services and Lifeline and Link-Up services, warrant further
14 discussion.

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18 ⁶⁷See Order U-05-41(1), *Order Affirming Electronic Ruling, Approving*
19 *Applications for Eligible Telecommunications Carrier Status and Requiring Filings*, dated
20 January 25, 2006; Order U-04-110(1), *Order Granting Eligible Telecommunications*
21 *Carrier Status and Requiring Filings*, dated November 18, 2005.

22 Docket U-05-41 is titled *In the Matter of the Application of DOBSON CELLULAR*
23 *SYSTEMS, INC for Designation as a Carrier Eligible to Receive Federal Universal*
24 *Service Support under the Telecommunications Act of 1996.*

25 Docket U-04-110 is titled *In the Matter of the Request by ALASKA DIGITEL, LLC*
26 *for Designation as an Eligible Telecommunication Carrier in Areas Served by ACS of*
Anchorage, Inc. d/b/a Alaska Communications Systems, ACS Local Service, and ACS.

1 Emergency Services

2 In the Non-Nationwide Carriers Order,⁶⁸ the FCC provided deployment
3 deadlines to wireless carriers in implementing Phase II enhanced 911 (E911) services
4 and reporting requirements for Tier III carriers.⁶⁹ The Non-Nationwide Carriers Order
5 requires that carriers who employ handset-based location technology shall, without
6 respect to any Public Safety Access Point (PSAP) request for deployment of Phase II
7 enhanced service, ensure that 100 percent of all new digital handsets activated are
8 location-capable no later than November 30, 2004 and that penetration of location-
9 capable handsets among its subscribers reaches ninety-five percent no later than
10 December 31, 2005.⁷⁰

11 ACSW stated that it currently provides basic 911 services in the CVTC
12 and Ketchikan areas.⁷¹ ACSW transmits its customers' 911 emergency calls from the
13 cell site where the 911 originates to the PSAP serving that area.⁷² However, ACSW's
14 time division multiple access and advance mobile phone service (TDMA/AMPS) system
15 in the Ketchikan area is not E911 Phase II capable. ACSW asserted that with its code
16 division multiple access (CDMA) network, it will be capable of providing Phase I and
17 Phase II E911 services.⁷³ ACSW also stated that it is committed to working with other

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20 ⁶⁸*Revision of the Commission's Rules to Ensure Compatibility with Enhanced*
21 *911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide*
22 *CMRS Carriers*, CC Docket No. 94-102, FCC 02-210, 17 FCC Rcd 14841 (July 26,
23 2002) (Non-Nationwide Carriers Order), para. 33.

24 ⁶⁹*Id.* at para. 34.

25 ⁷⁰*Id.* at para. 33.

26 ⁷¹Application at 9.

⁷²Reply at 9.

⁷³See 47 C.F.R. § 54.101(a)(5). Application at 9, 22; Miller Affidavit at 4.

1 PSAPs in the deployment of E911 service in the proposed service areas.⁷⁴ While
2 ACSW is not fully compliant with the requirements of the FCC in implementing Phase I
3 and Phase II E911 services at this time, we believe that ACSW has demonstrated its
4 ability to meet the emergency services requirement associated with ETC status.

5 Lifeline and Link-Up Services

6 ACSW committed to provide Lifeline and Link-Up services. ACSW stated
7 that for its qualified customers, it will offer a basic Lifeline rate of one dollar and Link-Up
8 customers will receive a total discount of \$35.00 for the service activation charge, plus
9 an additional credit of up to \$100 to cover special installation requirements.⁷⁵ ACSW
10 stated that under 47 C.F.R. § 54.403 requirements, it will provide a \$38.50 discount to
11 Lifeline customers. To reduce the base rate of \$40.00 for Lifeline customers to \$1,
12 ACSW stated that it will provide an additional \$.50 discount.⁷⁶ Further, ACSW stated it
13 will use the eligibility criteria provided in 3 AAC 53.390(a) and (b) as a means test to
14 offering Lifeline and Link-Up assistance to customers.⁷⁷

15 Public Interest Determination

16 In its Virginia Cellular Order,⁷⁸ the FCC stated:

17 [T]he value of increased competition, by itself, is not sufficient to satisfy the
18 public interest test in rural areas. Instead, in determining whether
19 designation of a competitive ETC in a rural telephone company's service

20 ⁷⁴Reply at 10.

21 ⁷⁵Application at 13-14. ACSW's standard wireless activation fee is \$35.00.
22 ACSW stated that in almost all cases Link-Up customers will be able to activate service
23 for no charge.

24 ⁷⁶*Id.* at 13.

25 ⁷⁷*Id.* at 14-15.

26 ⁷⁸*Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition
for Designation as an Eligible Telecommunications Carrier in the Commonwealth of
Virginia, CC Docket No. 96-45, FCC 03-338, 19 FCC Rcd. 1563, (January 22, 2004)
(Virginia Cellular Order).*

1 area is in the public interest, we weigh numerous factors, including the
2 benefits of increased competitive choice, the impact of multiple designations
3 on the universal service fund, the unique advantages and disadvantages of
4 the competitor's service offering, any commitments made regarding quality of
telephone service provided by competing providers, and the competitive
ETC's ability to provide the supported services throughout the designated
service area within a reasonable time frame.⁷⁹

5 We agree with the FCC that evaluation of the public interest requires review of a variety
6 of factors and cannot simply rest on "increased competition."

7 CVTC and Ketchikan asserted that ACSW failed to prove that its ETC
8 designation is in the public interest.⁸⁰ ACSW stated that its designation as an ETC is in
9 the public interest because it will offer customers higher quality service, mobility, more
10 service choices, affordable services, and service to underserved and unserved
11 customers.⁸¹ In addition, ACSW stated that its designation as an ETC will benefit public
12 safety with the capability of its CDMA network to provide E911 service.⁸² ACSW also
13 stated that Copper Valley Wireless currently provides analog AMPS cellular service,
14 which provides only basic service voice service without features such as Caller ID or
15 Call Waiting.⁸³ ACSW asserted that its CDMA network will improve the current quality
16 and range of services available to customers in the CVTC and Ketchikan service
17 areas.⁸⁴ ACSW also stated that it will offer improved service to underserved and
18 unserved customers who do not have access to advanced wireless service, including
19 high-speed wireless data service.⁸⁵ ACSW further stated that its customers will benefit

20 ⁷⁹Virginia Cellular Order at para. 4.

21 ⁸⁰CVTC Comments at 4; Ketchikan Comments at 14.

22 ⁸¹Application at 18-23.

23 ⁸²*Id.* at 22.

24 ⁸³*Id.* at 18.

25 ⁸⁴*Id.* at 20.

26 ⁸⁵*Id.* at 22.

1 from a larger facilities-based network which will result in fewer "dead spots" and
2 dropped calls.⁸⁶

3 We find that granting ACSW's ETC application will improve customers'
4 ability to obtain wireless services and provide customers more choices for meeting their
5 communications needs. Low-income customers who otherwise would be unable to
6 afford wireless service will be able to obtain service using the Lifeline and Link-Up
7 discounts. Although ACSW did not offer a rate plan based on receipt of universal
8 service support, ACSW stated that it currently offers a number of basic rate plans with
9 different levels of local usage which meet the local usage requirement, and it intends to
10 offer similar rate plans in the requested ETC service areas.⁸⁷

11 ACSW commits to report the number of consumer complaints per 1,000
12 handsets on an annual basis.⁸⁸ We do not currently regulate the quality of service by
13 ACSW, and we do not have sufficient evidence to define quality of service standards for
14 wireless carriers. However, if we receive customer complaints, we may examine
15 whether ACSW is meeting its ETC obligations throughout the service area. We may
16 also consider ETC service quality in a regulations docket upon petition or on our own
17 motion.

18 ACSW asserted that ETC designation would allow it to accomplish its
19 build-out and service improvement plans. ACSW provided a list of projects for the first
20 five years of receipt of USF.⁸⁹ The projects include cell site constructions in the
21 proposed service areas and an upgrade and expansion of network equipment. We
22

23 ⁸⁶Application at 21.

24 ⁸⁷*Id.* at 7-8.

25 ⁸⁸Reply at 8.

26 ⁸⁹Reply at 9, Ex. 1.

1 believe that the expansion of facilities by ACSW may improve service quality which
2 would also be in the public interest.

3 Potential for Creamskimming

4 CVTC contended that the potential for creamskimming should be
5 considered in reviewing ACSW's ETC application.⁹⁰ CVTC also stated that ACSW did
6 not make an adequate showing of its capability and commitment to serve throughout
7 CVTC's entire service area.⁹¹ In addition, CVTC stated that ACSW did not provide in its
8 network improvement plan a proposed service to Tatitlek, McCarthy, or Mentasta.⁹²
9 CVTC believes that ACSW made the strategic decision to purport to be capable of and
10 committed to providing service throughout CVTC's service area in order to avoid
11 rigorous public interest assessment of the potential for creamskimming and to avoid
12 redefinition of CVTC's study area.⁹³

13 We disagree with CVTC. It is speculative to assume that ACSW will
14 purposely avoid providing service once it commits to serve throughout the service areas
15 of CVTC and Ketchikan. Should ACSW fail in its commitment to serve an entire study
16 area, it would be in violation of a condition of its ETC designation, and we would have
17 the ability to revoke that ETC designation. Further, ACSW filed in its reply its network
18 improvement plan which includes cell site construction in McCarthy, Mentasta, and
19 Tatitlek in the CVTC service area.⁹⁴ With ACSW's commitment to provide all nine
20 services, including Lifeline and Link-Up services, throughout the service areas of CVTC
21

22 ⁹⁰CVTC Comments at 20.

23 ⁹¹*Id.* 32.

24 ⁹²*Id.* 25.

25 ⁹³*Id.* 21.

26 ⁹⁴Reply, Ex. 1.

1 and Ketchikan upon receiving USF,⁹⁵ we believe that there is no legitimate cause to
2 address the issue of creamskimming in this proceeding.

3 Advertising Services

4 Section 214(e)(1)(B) of the Act requires an ETC to advertise the
5 availability of the nine basic services, including Link-Up and Lifeline, and the charges for
6 the services using "media of general distribution." ACSW stated that it will advertise the
7 availability of each of the supported services throughout its proposed ETC service
8 area.⁹⁶ ACSW also filed the affidavit of D. C. Eisenberg⁹⁷ in support of ACSW's
9 commitment to advertise the availability of its ETC services.

10 When designating a carrier as an ETC, we require it to meet minimum
11 advertising requirements to ensure appropriate and sufficient customer notification of its
12 services. Therefore, we require ACSW to advertise its services as follows:⁹⁸

- 13 1. once every two years, perform community outreach through appropriate
14 community agencies by notifying those agencies of ACSW's available
services;
- 15 2. once every two years, post a list of its services on a school or
16 community center bulletin board in each of the utility's exchanges;
- 17 3. once a year, provide a bill stuffer indicating ACSW's available services;
and
- 18 4. once a year, advertise ACSW's services through the newspaper
19 circulated in the locations served by ACSW.

20 We find that granting ETC status to ACSW is in the public interest. We
21 conclude that ACSW adequately demonstrated that it met all criteria necessary to allow

22 ⁹⁵Application at 5; Reply at 5.

23 ⁹⁶*Id.* at 15-16.

24 ⁹⁷Eisenberg Affidavit at 5.

25 ⁹⁸"Services" refer to those services for which ACSW receives universal service
26 support. ACSW need not advertise nonsupported services.

1 award of ETC status. We, therefore, approve ACSW's request for ETC status, and we
2 set out the following conditions.

3 Conditions on ETC Status

4 Annual Certification

5 We monitor the continued appropriate use of universal service funding in
6 our rural markets by requiring annual certification by all designated ETCs.⁹⁹
7 Accordingly, we require ACSW to file the same information required of all other rural
8 ETCs in Alaska through our annual use-of-funds certification process.

9 Build-out Plans

10 ACSW committed to providing the supported services and provided its
11 build-out and service improvement plans for serving throughout the service areas of
12 CVTC and Ketchikan.¹⁰⁰ ACSW stated that high-cost support will enable it to accelerate
13 its build-out process in a manner that its business model does not permit at this time,
14 although any accelerated construction schedule will depend on several factors, such as
15 when it begins to receive support and where it is in the construction schedule when it
16 begins to receive support.¹⁰¹

17 In its Application, ACSW provided maps showing its current coverage
18 relative to the incumbent local exchange carrier's (ILEC's) service areas, and
19 information indicating the number and location of its existing cell sites, including its
20

21 ⁹⁹See Order U-05-58(1), *Order Opening Docket and Requiring Data*, dated
22 July 22, 2005.

23 Docket U-05-58 is titled *In the Matter of the Commission Compliance with*
24 *Federal Requirement to Certify Proper Use of 2006 Federal Universal Service Funds*
25 *by Telecommunications Carriers*.

26 ¹⁰⁰Reply at 2, 5, Ex. 1; Application at 3, 5, Ex. C.

¹⁰¹Application at 12.

1 build-out schedule from 2005 to 2007.¹⁰² In its Reply, ACSW stated that it had
2 constructed several cell sites in the CVTC area.¹⁰³ It appears that ACSW's build-out
3 schedule filed with its Application¹⁰⁴ in October 2005 has changed based on statements
4 in its Reply.

5 With the approval of ACSW's ETC Application, we require ACSW to file
6 updated maps and information showing its current network coverage relative to the
7 service areas of the ILECs, existing operational cell sites, and build-out schedule. We
8 require ACSW to file on an ongoing basis any adjustments to its proposed construction
9 schedule. That record will assist us in monitoring ACSW's progress in its network
10 expansion and upgrade.

11 FCC ETC Designation

12 CVTC and Ketchikan asserted, among other things, that ACSW's
13 Application does not satisfy the requirements imposed by the Federal Communications
14 Commission (FCC) on ETC applicants.¹⁰⁵ In the FCC ETC Order,¹⁰⁶ the FCC
15 established additional minimum eligibility requirements for a telecommunications carrier
16 to be designated as an ETC by the FCC when a state lacked authority to make the ETC
17 designation. The FCC stated that in evaluating an ETC designation, the FCC would
18 require the ETC applicant to submit, among other things, a formal network improvement
19 plan that demonstrates how USF will be used to improve its service coverage, signal
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21

22 ¹⁰²Application, Ex. C, D and F.

23 ¹⁰³Reply at 2, Ex. 4 at 1.

24 ¹⁰⁴Application Ex. C.

25 ¹⁰⁵CVTC Comments at 7-16; KPU Comments at 5-12.

26 ¹⁰⁶FCC ETC Order at paras. 20-36.

1 strength, or capacity.¹⁰⁷ The FCC stated that an ETC applicant should demonstrate its
2 ability to remain functional in emergency situations, show that it offers a local usage
3 plan comparable to the one offered by the ILEC in the service area, and acknowledge
4 that it may be required to provide equal access if all other ETCs in the designated
5 service area relinquish their designations pursuant to section 214(e)(4) of the Act. In
6 addition, the FCC set the analytical framework it will use to determine whether the
7 public interest would be served by the applicant's ETC designation. Further, the FCC
8 required designated ETCs to comply with the annual certification and reporting
9 requirements.¹⁰⁸

10 We find merit in many of the FCC's requirements for reviewing and
11 granting requests for ETC designation. However, we will not impose the new standards
12 from the FCC ETC Order at this time but address those issues in a separate rulemaking
13 docket that would apply to all ETCs.

14 Petitions to Intervene

15 We invited petitions to intervene in this proceeding.¹⁰⁹ CTCI, CVTC, GCI,
16 and Ketchikan filed petitions to intervene. In light of ACSW's motion for approval of its
17 Application without a hearing, we held in abeyance the petitions to intervene pending a
18 decision on the Motion. Having approved ACSW's ETC Application, we conclude that
19 no purpose would be served by moving on the petitions to intervene in this proceeding.
20 Therefore, we find the petitions to intervene by CTCI, CVTC, GCI, and Ketchikan moot.

21 This Order constitutes the final decision in this proceeding. This decision
22 may be appealed within thirty days of the date of this Order in accordance with

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24 ¹⁰⁷FCC ETC Order at para. 21.

25 ¹⁰⁸*Id.* at paras. 68-72.

26 ¹⁰⁹Order U-05-89(1).

1 AS 22.10.020(d) and the Alaska Rules of Court, Rule of Appellate Procedure
2 (Ak. R. App. P.) 602(a)(2). In addition to the appellate rights afforded by
3 AS 22.10.020(d), a party has the right to file a petition for reconsideration as permitted
4 by 3 AAC 48.105. If such a petition is filed, the time period for filing an appeal is then
5 calculated under Ak. R. App. P. 602(a)(2).

6 **ORDER**

7 **THE COMMISSION FURTHER ORDERS:**

8 1. The electronic ruling issued on January 25, 2006, granting Copper
9 Valley Telephone Cooperative, Inc. and Cordova Telephone Cooperative, Inc.'s request
10 to appear telephonically at the February 2, 2006 prehearing conference is affirmed.

11 2. The electronic ruling issued on February 9, 2006, construing the
12 request by ACS Wireless, Inc. for approval of its eligible telecommunications carrier
13 application without a hearing as a motion, allowing for responses and reply, and holding
14 the petitions to intervene in abeyance is affirmed.

15 3. The electronic ruling issued on April 4, 2006, granting the motion for
16 approval of eligible telecommunications carrier application without a hearing, approving
17 the application, filed by ACS Wireless, Inc. on October 3, 2005, for status as an eligible
18 telecommunications carrier for purposes of receiving federal and state universal service
19 funding throughout the areas served by Copper Valley Telephone Cooperative, Inc. and
20 City of Ketchikan, and vacating the procedural schedule is affirmed.

21 4. By 4 p.m., May 11, 2006, ACS Wireless, Inc. shall file updated maps
22 and additional information of its current network coverage relative to the service areas
23 of incumbent local exchange carriers, existing operational cell sites, and build-out
24 schedule, as discussed in the body of this order.

25 5. ACS Wireless, Inc. shall file on an ongoing basis any adjustments to
26 its construction schedule.

1 6. ACS Wireless, Inc. shall file as if it were a regulated carrier in
2 response to our requests for information for the annual use-of-funds certification to the
3 Federal Communications Commission.

4 7. ACS Wireless, Inc. shall report to us within 30 days of its
5 determination of any instance in which it does not provide service to a customer in its
6 service area upon reasonable request.

7 8. ACS Wireless, Inc. shall report to us the number of consumer
8 complaints per 1,000 handsets on an annual basis.

9 9. The petitions to intervene filed by Cordova Telephone Cooperative,
10 Inc. on January 13, 2006; by Copper Valley Telephone Cooperative, Inc. on
11 January 10, 2006; filed by City of Ketchikan on January 25, 2006; and by General
12 Communication Corp. d/b/a General Communication, Inc. d/b/a GCI on
13 January 26, 2006 are moot.

14 DATED AND EFFECTIVE at Anchorage, Alaska, this 11th day of April, 2006.

15 BY DIRECTION OF THE COMMISSION
16 (Commissioners Dave Harbour and
17 Mark K. Johnson, not participating.)

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